

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6884

BILL NUMBER: HB 1113

NOTE PREPARED: Apr 1, 2005

BILL AMENDED: Mar 31, 2005

SUBJECT: Court Fees.

FIRST AUTHOR: Rep. Richardson

FIRST SPONSOR: Sen. Lawson C.

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

- A. It adds a Judicial Salaries Fee that increases over time and that has a rate schedule for small claims and a rate schedule for all other filings.
- B. It changes the Judicial Administration Fee to the Public Defense Administration Fee and increases the fee from \$2 to \$3.
- C. It changes the Judicial Insurance Adjustment Fee to a Judicial Administration Fee and increases the fee from \$1 to \$2.
- D. It dedicates the revenue from the Public Defense Fee and the Judicial Administration Fee to the state General Fund.
- E. It dedicates 100% of the revenue from the Judicial Salaries Fee for circuit court filings and 75% for city and town court filings to the state General Fund.
- F. It increases the Deferred Prosecution Fee from \$50 to \$120 and makes the Deferred Moving Traffic Violation Court Cost a fee and increases the fee from \$25 to \$70. It dedicates 100% of the revenue from both of these deferred prosecution fees to the state General Fund.
- G. It exempts certain protective order filing from foreign jurisdictions.

Effective Date: (Amended) June 1, 2005; July 1, 2005.

Explanation of State Expenditures:

Explanation of State Revenues: (Revised) Added revenue to the state General Fund of \$28.27 M. would come from four sources: the Public Defense Administration Fee, the Judicial Administration Fee, a Judicial

Salaries Fee, and changes in the Deferred Prosecution Fee, the Deferred Traffic Offense Prosecution Fee, and redirection of the user fee revenue from the infractions deferral programs.

Summary of New Revenue Generated	
<u>Fee</u>	<u>General Fund Revenue (\$M)</u>
Changing the Judicial Administration Fee to the Public Defense Administration Fee	\$1.07
Changing the Judicial Insurance Adjustment Fee to the Judicial Administration Fee	\$1.07
Judicial Salaries Fee	\$14.20
Changes in the Deferred Prosecution Fee and the Deferred Traffic Offense Prosecution Fee	\$3.73
User Fee Revenue from Infractions Deferral Program	<u>\$8.20</u>
Estimated New Revenue	<u><u>\$28.27</u></u>

Changing the Judicial Administration Fee to the Public Defense Administration Fee – The Judicial Administration Fee is charged in all cases involving civil, criminal, noncivil, and small claims cases. This fee would be renamed the Public Defense Fee and increased from \$2 to \$3. This one dollar increase is estimated to increase revenue generated by this fee by \$1.07 M each year.

Changing the Judicial Insurance Adjustment Fee to the Judicial Administration Fee – This fee would be increased from the current \$1 to \$2. This dollar increase is expected to increase revenue to the state General Fund by \$1.07 M. Revenue from the Judicial Insurance Adjustment Fee is currently deposited in the Judicial Branch Health Care Adjustment Account (IC 33-38-5-8.2) for reimbursement to judges and prosecuting attorneys.

Judicial Salaries Fee – For civil filings, juvenile cases, felony convictions, misdemeanor convictions, infractions, and ordinance violation actions in trial courts and city and town courts, \$15 would be collected. For small claims cases in the state's trial courts and Marion County Small Claims Courts, a fee of \$10 would be assessed at filing.

The percentage of revenue collected from this fee that would be deposited into the state General Fund depends on the court from which the fee is assessed:

- 100% of the revenue collected from the state's trial courts would be deposited in the state General Fund;
- 75% of the revenue collected from the city and town courts in Indiana would be deposited in the state General Fund;
- 75% of the revenue collected from the nine Marion County Small Claims Courts would be deposited in the State User Fee Fund.

This fee is expected to generate approximately \$14.2 M each year for the state General Fund.

Estimated New Revenue Generated by Judicial Salaries Fee and Estimated Revenue By Case Category Deposited into the State General Fund and the State User Fee Fund				
	State General Fund			
	<u>Courts of Record</u>	<u>City and Town Courts</u>	<u>Marion County Small Claims Court</u>	<u>Total Revenue</u>
Felonies and Misdemeanors	\$711,873	\$245,216		\$957,089
Infractions	\$5,854,130	\$1,501,748		\$7,355,878
Ordinance Violations	\$798,744	\$144,742		\$943,486
Juvenile	\$214,088			\$214,088
Civil Plenary and Tort	\$1,293,293	\$126,491		\$1,419,784
Small Claims	\$1,734,497		\$632,418	\$2,366,915
Domestic Relations	\$504,380			\$504,380
Probate and Others	\$478,883	\$170		\$479,053
Totals	<u>\$11,589,888</u>	<u>\$2,018,367</u>	<u>\$632,418</u>	<u>\$14,240,673</u>

In future years, fees would be increased by \$1 whenever salaries of judicial officers are increased.

Changes in the Deferred Prosecution Fee and the Deferred Traffic Offense Prosecution Fee – Indiana law allows prosecuting attorneys to establish programs in their counties in which prosecution in cases involving misdemeanors, infractions, and ordinance violations may be avoided if the defendant pays an initial and monthly fee deposited in a local fund and another fee that is split between the state and local general funds.

In misdemeanor cases, defendants can agree to enter into a diversion program under IC 33-39-1-8. Participants in the program pay an initial fee, a monthly fee, and a Deferred Prosecution Fee. The initial and monthly fees are deposited in a pre-trial diversion program fund. A prosecutorial diversion fee of \$50 is also charged and split between state and local funds.

In infractions and ordinance violations cases, the prosecuting attorney of a county or an attorney representing a municipal corporation may establish a deferral program for infractions and ordinance violations. Defendants in deferral programs pay an initial fee and monthly fee to the local program, and a \$25 deferral fee is assessed on all actions involving a moving traffic offense. Like the prosecutorial diversion fee, the deferral fee is split between the state and the local general funds.

As proposed, the fees paid by participants in these programs would be increased from the current fees to the new fees shown below. The revenue from these fees which is now split between the state and counties and cities and towns would all be deposited in the state General Fund.

Fees Paid for Pretrial Diversion Programs for Misdemeanors and Deferral Programs for Infractions and Ordinance Violations			
	<u>Current</u>	<u>New</u>	<u>Added</u>
Pretrial Diversion Program Fees for Misdemeanors	\$50	\$120	\$70
Deferral Program Fees for Infractions and Ordinance Violations	\$25	\$70	\$45

New revenue would be generated by the added fees and by the state General Fund receiving the percentage currently deposited into the general funds of counties and cities and towns. The following table shows these increases:

Potential Revenue Generated by Proposed Court Fee Increase				
	Case Type	Avg. Dispositions CY 2002, 2003	Added Fee	Added Revenue*
Trial Courts	Misdemeanors	12,889	\$70	\$902,230
	Infractions	36,135	\$45	1,626,075
	Ordinance Violations	3,171	\$45	142,695
City and Town Courts	Misdemeanors	3,291	\$70	\$230,370
	Infractions	16,128	\$45	725,760
	Ordinance Violations	2,442	\$45	109,890
ADDED REVENUE:				<u>\$3,737,020</u>
* at 100% payment rate				

The initial and monthly user fees from infractions deferral programs would also be deposited in the state General Fund. The initial fee is \$52 and the monthly fee is \$10. Based on reported collections between FY 1999 and 2003, the new revenue that the state General Fund would receive could be \$8.2 M.

Revenue (in \$M) from User Fees Deferral Program for Infractions and Ordinance Violations by Calendar Year						
	1999	2000	2001	2002	2003	Five-Year Average
Counties	\$8.31	\$8.06	\$6.81	\$8.52	\$8.40	\$8.00
Cities and Towns	<u>\$0.35</u>	<u>\$0.48</u>	<u>\$0.08</u>	<u>\$0.05</u>	<u>\$0.04</u>	<u>\$0.20</u>
Total	\$8.66	\$8.54	\$6.89	\$8.57	\$8.44	\$8.20

Explanation of Local Expenditures:

Explanation of Local Revenues: (Revised) Changes in revenues for local units of government would result from the Judicial Salaries Fee, redirecting the current local share of the Deferred Prosecution Fee and the Deferred Traffic Offense Prosecution Fee to the state General Fund, and redirecting the user fees from the infractions deferral programs from the county and cities and towns funds to the state General Fund.

The following table shows the changes in funding for counties, cities and towns, and the Marion County Township Small Claims Courts.

Provision	Counties	City and Towns	Marion County Township Small Claims Courts
Judicial Salaries Fee		\$672,789	\$158,104
Deferred Prosecution Fee and the Deferred Traffic Offense Prosecution Fee	(\$565,077)	(\$206,013)	
User Fees from Infractions Deferral Programs	(\$8,000,000)	(\$200,000)	_____
Total Changes	(\$8,565,077)	\$266,776	\$158,104

Judicial Salaries Fees -- As proposed, city and town courts and the Marion County Township Small Claims Courts would be permitted to retain 25% of the revenue collected from the Judicial Salary Fee. Cities and towns with city and town courts would retain an estimated \$672,000, while Marion County Township Small Claims Courts would be permitted to retain an estimated \$158,000.

Redirecting the Local Share of the Deferred Prosecution Fee and the Deferred Traffic Offense Prosecution Fee -- Local units of government retain 30% of the court fees generated in trial courts and 45% of the court fees generated in city and town courts.

Revenue Loss By Redirection of Court Fees						
		Average Dispositions CY 2002, CY2003		Current Fee	Revenue Loss	
	Case Type				Counties (27%)	Cities and Towns (3%)
Trial Courts	Misdemeanors	12,889	x	\$50	\$174,002	\$19,334
	Infractions	36,135	x	\$25	\$243,911	\$27,101
	Ordinance Violations	3,171	x	\$25	<u>\$21,404</u>	<u>\$2,378</u>
	Revenue Loss:				\$439,317	\$48,813
					Counties (20%)	Cities and Towns (25%)
City and Town Courts	Misdemeanors	3,291	x	\$50	\$32,910	\$41,138
	Infractions	16,128	x	\$25	\$80,640	\$100,800
	Ordinance Violations	2,442	x	\$25	\$12,210	\$15,263
	Revenue Loss:				\$125,760	\$157,200
TOTAL REVENUE LOSS:					\$565,077	\$206,013

User Fees from Infractions Deferral Programs -- see *Explanation of State Revenue*.

State Agencies Affected:

Local Agencies Affected: All courts of record with civil and small claims jurisdiction.

Information Sources: *Indiana Judicial Service Reports 1999 -- 2003*.

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